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**Via ECF**

January 12, 2014

The Honorable John G. Koeltl  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: United States v. Terry Friedberg  
13 Cr. 549 (JGK)

Dear Judge Koeltl:

This letter is respectfully submitted on behalf of Terry Friedberg in reply to the Government's Sentencing Memorandum. First, the home owned by Mr. Friedberg in Connecticut, purchased by him in 2004, did not provide a "stream of rental income" as the Government avers. Rather, any "income" that Mr. Friedberg obtained from the home's rental was used to pay the large outstanding mortgage on the property, substantial real estate taxes owed on the property and regular maintenance. There was virtually no "income" at all from the property that Mr. Friedberg pocketed. In addition, while valued at approximately \$2,000,000, it is a 2,400 square foot house that is appraised as such based primarily on its location in lower Fairfield County Connecticut.

Further, the Government is certainly correct that many people suffered more in the financial crash of 2008 than Mr. Friedberg (and many suffered less as well). The financial crash of 2008 is not offered as an excuse for, nor does it mitigate, the fraudulent conduct. It does, however, provide the Court with the background necessary to explain the circumstances under which the offense was committed. Prior to the financial crash of 2008, Mr. Friedberg invested almost his entire net worth in the real estate market. In addition, Mr. Friedberg borrowed heavily to start the businesses that were the vehicles for his real estate developments. At the time of the crash, Mr. Friedberg's real estate businesses, the Axis Group Companies referenced in Mr. Friedberg's Sentencing Memorandum, owed in excess of \$13M in loans to Bank of America and Patriot National Bank, a small regional lender that had invested heavily in a mortgage portfolio. Patriot National Bank, as a result of the financial crash, was on the verge of failing. The decision was made to pay off the loans to Patriot in order to avoid a total loss of the value of the properties if they became tied up in a bankruptcy proceeding. Axis Point decided to pay off the Bank of America loans as well. These payments along with an additional 2 years of carrying costs on many of the properties as they were completed and sold caused a total loss of Mr. Friedberg's net worth. (Angelo DeCaro, the President and CEO of Patriot National Bank at the time, was one of the people who wrote a letter of reference for Mr. Friedberg and it is attached to Mr. Friedberg's Sentencing Memorandum.)

With regard to Prestige, Mr. Friedberg has paid them a total of \$350K. Those payments were made as follows: (1) February 29, 2012 wire transfer in the amount of \$100K; (2) March 6, 2012 wire transfer in the amount of \$50K; and (3) April 30, 2012 wire transfer in the amount of \$200K. These payments were detailed in a forbearance agreement signed by all the parties and Prestige's amended complaint filed against Mr. Friedberg. Mr. Friedberg admits that he has not paid the remainder of the judgment due to his present financial condition. Finally, the Government was aware of the allegations with regard to Prestige at the time Mr. Friedberg signed his plea agreement and entered his plea. At that time the Government believed that the conduct with regard to Prestige was related to the conduct with regard to the insurance companies. The Government did not charge him with the Prestige related conduct at the time. In the ensuing months, the Government came to believe that the allegations concerning Prestige were actually unrelated to the insurance companies. Based on recent conversations with AUSA Alexander Wilson, the Government, however, has no present intention to file any criminal charges with regard to Prestige.

Sincerely,

*s/ Daniel L. Bibb*

Daniel L. Bibb, Esq.

cc: AUSA Alexander Wilson (Via ECF)

